

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File No. EB-04-IH-0274
)	
Carrera Communications, LP)	NAL/Acct. No. 200532080137
)	
Apparent Liability for Forfeiture)	FRN No. 0010-7507-43
)	

**NOTICE OF APPARENT LIABILITY
FOR FORFEITURE AND ORDER**

Adopted: July 25, 2005

Released: July 25, 2005

By the Commission:

I. INTRODUCTION

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that a telecommunications provider, operating since 1999 and at least indirectly benefiting from the federal programs supporting the telecommunications industry since that time, apparently failed to meet its statutory and regulatory obligations relating to those programs. Despite multiple Commission inquiries into its compliance with our rules and the Communications Act of 1934, as amended (the “Act”),¹ and with the exception of a few isolated acts of post-investigative compliance, this carrier continues a pattern of egregious non-compliance. Based upon the facts and circumstances surrounding this matter we conclude that this company is apparently liable for a total forfeiture of \$606,500.

2. We specifically find that Carrera Communications, LP (“Carrera”) has apparently violated sections 54.711(a) and 64.604 of the Commission’s rules by failing to submit certain Telecommunications Reporting Worksheets (“Worksheets”) or predecessor forms from 1999 through the current date.² Further, we find that Carrera has apparently violated section 254(d) of the Act and sections 54.706(a) and 64.604(c)(5)(iii)(A) of the Commission’s rules by willfully and repeatedly failing to contribute to the Universal Service Fund (“USF”) and Telecommunications Relay Service (“TRS”) Fund.³ We also find that Carrera has apparently violated sections 1.1154 and 1.1157(b)(1) of the Commission’s rules by failing to pay regulatory fees to the Commission.⁴ Finally, we find that Carrera apparently violated Commission orders by willfully and repeatedly failing to respond to Commission directives to provide certain information.

3. We order Carrera to submit within thirty days, either as part of its response to this NAL or separately, a report, supported by a sworn statement or declaration under penalty of perjury of a corporate officer, setting forth in detail its plan to come into compliance with the relevant payment and reporting

¹47 U.S.C. § 254(d).

²47 C.F.R. §§ 54.711(a), 64.604.

³47 C.F.R. §§ 54.706(a), 64.604(c)(5)(iii)(A).

⁴47 C.F.R. §§ 1.1154, 1.1157(b)(1).

rules discussed herein. We further order Carrera to file with the Universal Service Administrative Company (“USAC”) within thirty days all annual Telecommunications Reporting Worksheets and amended Worksheets required under the Commission’s rules from the date that Carrera commenced providing telecommunications services in the United States to the date of this NAL.⁵

II. BACKGROUND

4. The Commission is charged by Congress with regulating interstate and international telecommunications and ensuring that providers of such telecommunications comply with the requirements imposed on them by the Act and our rules.⁶ The Commission also has been charged by Congress to establish, administer and maintain various telecommunications regulatory programs, which are described in more detail below, and to fund these programs through assessments on the telecommunications providers that benefit from them. To accomplish these goals, the Commission established “a central repository of key facts about carriers” through which it could monitor the entry and operation of interstate telecommunications providers to ensure, among other things, that they are qualified, do not engage in fraud, and do not evade oversight.⁷ Commission rules require that, upon entry or anticipated entry into interstate telecommunications markets, telecommunications carriers register by submitting information on an FCC Form 499-A, also known as the annual Telecommunications Reporting Worksheet.⁸ The Commission also requires telecommunications providers to submit financial information on annual and, with some exceptions not applicable to Carrera, quarterly short-form Worksheets to enable the Commission to determine and collect the statutorily mandated program assessments.⁹

5. The Telecommunications Act of 1996 codified Congress’ historical commitment to promote universal service to ensure that consumers in all regions of the nation have access to affordable, quality telecommunications services.¹⁰ In particular, section 254(d) of the Act requires, among other things, that “[e]very telecommunications carrier [providing] interstate telecommunications services . . . contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.”¹¹ In implementing this Congressional mandate, the Commission directed all telecommunications carriers providing interstate

⁵The Commission has appointed USAC as the administrator of federal universal service support mechanisms and has made it responsible for billing and collection of USF contributions. 47 C.F.R. §§ 54.701(a), 54.702(b).

⁶See, e.g., 47 U.S.C. § 151.

⁷See *Implementation of the Subscriber Carrier Selection Provisions of the Telecommunications Act of 1996*, Third Report and Order and Second Order on Reconsideration, 15 FCC Rcd 15996, 16024 (2000) (“*Carrier Selection Order*”). Existing carriers such as Carrera were required to register on or before April 2, 2001. *Id.* at 15996, 16025 (requiring existing carriers to register on the date the new registration requirement becomes effective); 66 Fed. Reg. 17083 (Mar. 29, 2001) (announcing that the OMB approved information collection requirement in 4 C.F.R. § 64.1195 would take effect on April 2, 2001).

⁸47 C.F.R. § 64.1195.

⁹See 47 U.S.C. §§ 159(a),(b); 225(d)(3); 251(e)(2); 254(d). In 1999, to streamline the administration of the programs and to ease the burden on regulatees, the Commission consolidated the information filing requirements for multiple telecommunications regulatory programs into the annual Telecommunications Reporting Worksheet. See *1998 Biennial Regulatory Review*, Report and Order, 14 FCC Rcd 16602 (1999). The next year the Commission revised the Telecommunications Reporting Worksheet slightly to collect the additional information necessary to achieve its goal of establishing a central repository for interstate telecommunications providers by the least provider-burdensome method. *Carrier Selection Order*, 15 FCC Rcd at 16026.

¹⁰The Telecommunications Act of 1996 amended the Communications Act of 1934. See Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

¹¹47 U.S.C. § 254(d).

telecommunications services and certain other providers of interstate telecommunications to contribute to the Universal Service Fund based upon their interstate and international end-user telecommunications revenues.¹²

6. Section 225(b)(1) of the Act, which codifies Title IV of the Americans with Disabilities Act of 1990, directs the Commission to “ensure that interstate and intrastate telecommunications relay services are available, to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States.”¹³ To that end, the Commission established the TRS Fund to reimburse TRS providers for the costs of providing interstate telecommunications relay services.¹⁴ Pursuant to section 64.604(c)(5)(iii)(A) of the Commission’s rules, every carrier that provides interstate telecommunications services must contribute to the TRS Fund based upon its interstate end-user revenues.¹⁵

7. Finally, pursuant to section 9(a)(1) of the Act and section 1.1151 of the Commission’s rules, interstate telecommunications carriers and other providers must pay regulatory fees to the Commission to cover the costs of certain regulatory activities.¹⁶ In particular, sections 1.1154 and 1.1157(b)(1) of the Commission’s rules require that interstate telecommunications carriers pay regulatory fees on the basis of their interstate and international end-user revenues.¹⁷ Such fees must be paid on an annual basis,¹⁸ and failure to do so subjects a carrier to late payment penalties, as well as possible revocation of its operating authority.¹⁹ Further, under the Commission’s “red light rule,” action will be withheld on any application to the Commission or request for authorization made by any entity that has failed to pay when due its regulatory fees or any other program payment, such as USF contributions, and if payment or payment arrangements are not made within 30 days from notice to the applicant, such applications or requests will be dismissed.²⁰

8. The Commission has established specific procedures to administer the programs for universal service, telecommunications relay services, numbering administration and regulatory fees. A carrier must

¹²47 C.F.R. § 54.706(b). Beginning April 1, 2003, carrier contributions were based on a carrier’s projected, rather than historical, revenues. *Id.*

¹³47 U.S.C. § 225(b)(1).

¹⁴*See Telecommunications Relay Services and the Americans with Disabilities Act of 1990*, Third Report and Order, 8 FCC Rcd 5300, 5301, ¶ 7 (1993). Telecommunications relay services enable persons with hearing and speech disabilities to communicate by telephone with persons who may or may not have such disabilities. Such services provide telephone access to a significant number of Americans who, without it, might not be able to make or receive calls from others. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order, 15 FCC Rcd 5140, 5143, ¶ 5 (2000). NECA currently is responsible for administering the TRS Fund.

¹⁵47 C.F.R. § 64.604(c)(5)(iii)(A).

¹⁶Section 9(a)(1) of the Act directs the Commission to “assess and collect regulatory fees to recover the costs of the following regulatory activities of the Commission: enforcement activities, policy and rulemaking activities, user information services, and international activities.” 47 U.S.C. § 159(a)(1); *see also* 47 C.F.R. § 1.1151.

¹⁷*See* 47 C.F.R. §§ 1.1154, 1.1157(b)(1).

¹⁸47 C.F.R. § 1.1157(b)(1). Section 1.1154 of the Commission’s rules sets forth the schedule of annual regulatory charges and filing locations for common carrier services. *See* 47 C.F.R. § 1.1154.

¹⁹*See* 47 U.S.C. §§ 159(c)(1), (c)(3).

²⁰47 C.F.R. § 1.1910. The rule went into effect on November 1, 2004. *See* “FCC Announces Brief Delay in Enforcement of Red Light Rule,” *Public Notice*, 19 FCC Rcd 19452 (2004).

file Worksheets for the purpose of determining its USF, TRS, and regulatory fee program payments.²¹ These periodic filings trigger a determination of liability, if any, and subsequent billing and collection by the entities that administer the regulatory programs. For example, USAC uses the revenue projections submitted on the quarterly filings to determine each carrier's universal service contribution amount.²² Carriers are required to pay their monthly USF contribution by the date shown on their invoice.²³ The Commission's rules explicitly warn contributors that failure to file their forms or submit their payments potentially subjects them to enforcement action.²⁴ The TRS Administrator and the Commission use the prior year's revenue information provided on the annual Worksheet to determine amounts owed for the TRS and regulatory fee programs, respectively.²⁵

9. Carrera is a Texas-based telecommunications carrier that has been providing telecommunications services as a competitive local exchange carrier and interexchange carrier since 1999.²⁶ In 2004, the Enforcement Bureau ("Bureau") audit staff sought to identify resellers of telecommunications services that failed to register as telecommunications service providers with the Commission, and, thus, may also have failed to satisfy various Commission program requirements.²⁷ To identify such resellers, the Bureau audit staff compared lists of resellers provided by wholesale service providers against the Commission's central repository of registered telecommunications service providers with filer identification numbers. If a reseller did not appear to have an identification number, the audit staff sent an inquiry to that reseller. On March 30, 2004, the Bureau's audit staff sent a letter to Carrera requesting information pertaining to Carrera's compliance with section 64.1195 of the Commission's rules.²⁸ Thereafter, Carrera registered and belatedly filed on May 5, 2004, certain revenue information that had been due April 1, 2004. Carrera then responded to the Bureau's audit staff that it had registered and filed.²⁹

10. After determining that Carrera appeared to have failed to timely register with the Commission or timely file required Telecommunications Reporting Worksheets, the Bureau issued a letter of inquiry

²¹Upon submission of a Form 499-A registration, the carrier is issued a filer identification number by USAC. The filer identification number is then to be included on all further filings by the company and is used by the Commission and its administrators to track the carrier's contributions and invoices.

²²Individual universal service contribution amounts that are based upon quarterly filings are subject to an annual true-up. See *Federal-State Joint Board on Universal Service, Petition for Reconsideration filed by AT&T*, Report and Order and Order on Reconsideration, 16 FCC Rcd 5748 (2001); 47 C.F.R. § 54.709(a).

²³ See *Globcom, Inc. Notice of Apparent Liability for Forfeiture and Order*, 18 FCC Rcd 19893, 19896 (2003) ("*Globcom*"); 47 C.F.R. § 54.711(a) ("The Commission shall announce by Public Notice published in the Federal Register and on its website the manner of payment and the dates by which payments must be made."). See, e.g., "Proposed Third Quarter 2003 Contribution Factor," *Public Notice*, 18 FCC Rcd 11442 (WCB 2003) ("Contribution payments are due on the date shown on the [USAC] invoice.") The Act and our rules, however, do not condition payment on receipt of an invoice or other notice from USAC. See 47 U.S.C. § 254(d); 47 C.F.R. § 54.706(b). A carrier that does not file may fail to receive an invoice from USAC, but is nonetheless required to contribute to the universal service fund, unless its revenues are considered *de minimus*. See *Globcom*, 18 FCC Rcd at 19896, n. 22. The instructions for the Telecommunications Reporting Worksheet include tables for carriers to determine their annual contributions. Carrera does not qualify for the *de minimus* exception.

²⁴47 C.F.R. § 54.713.

²⁵See 47 C.F.R. § 64.604(c); *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662, 11675, 11717 (2004).

²⁶See www.callcarrera.com.

²⁷See 47 C.F.R. § 64.1195(a).

²⁸See letter from Hugh Boyle, Chief Auditor, Investigations and Hearings Division, Enforcement Bureau, to Carrera dated March 30, 2004 ("March 30 Audit Letter").

²⁹See electronic mail response to the March 30 Audit Letter from Carrera dated May 7, 2004.

(“LOI”) to Carrera on July 29, 2004.³⁰ The LOI directed Carrera, among other things, to submit a sworn written response to a series of questions relating to Carrera’s apparent failure to register and file Telecommunications Reporting Worksheets and to make mandated federal telecommunications regulatory program payments. Carrera did not respond as required on August 18, 2004. After Bureau staff telephoned Carrera in late August regarding its failure to respond, Carrera requested additional time to respond to the LOI and the Bureau granted Carrera the extension. Carrera provided an incomplete response on September 13, 2004.³¹ The Bureau issued two additional letters to Carrera, on November 5, 2004 and on January 21, 2005, directing it to provide complete responses to the original LOI and warning that “[f]ailure to respond fully to the Bureau’s LOI can by itself subject Carrera to potential enforcement action.”³² Carrera failed to respond to the November 2004 and January 2005 LOIs in any manner. Carrera also failed to respond to telephone and voicemail messages left by Bureau staff regarding Carrera’s continuing failure to respond. During this same period, Carrera continued to fail to make any universal service contribution and regulatory fee program payments, paid its TRS Fund contribution four months late and only after repeated collection efforts by the Administrator, failed to file the quarterly Telecommunications Reporting Worksheets due May 1, August 1, and November 1, 2004, and February 1 and May 1, 2005, and failed to file the annual Worksheet due April 1, 2005.

III. DISCUSSION

11. Under section 503(b)(1)(B) of the Act, any person who is determined by the Commission to have willfully or repeatedly failed to comply with any provision of the Act or any rule, regulation, or order issued by the Commission shall be liable to the United States for a forfeiture penalty.³³ To impose such a forfeiture penalty, the Commission must issue a notice of apparent liability and the person against whom the notice has been issued must have an opportunity to show, in writing, why no such forfeiture penalty should be imposed.³⁴ The Commission will then issue a forfeiture if it finds by a preponderance

³⁰Letter from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Joann P. Bennett, Carrera, dated July 29, 2004.

³¹Letter from Joann P. Bennett, General Partner, Carrera, to Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, dated September 10, 2004, with facsimile transmission date of September 13, 2004 (“*Carrera Response*”). Carrera did not respond fully to LOI Inquiry Numbers 8, 9, 10, and 12 regarding various regulatory program payments.³¹ In addition, the affidavit Carrera supplied to support its response did not contain a statement that it was made under penalty of perjury, as specifically required in the LOI, and thus failed to conform to Commission Rule 1.16, 47 C.F.R. § 1.16. Moreover, in response to LOI Inquiry Number 5, Carrera did not provide a specific response setting forth the required revenue information.

³²Letters from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Joann P. Bennett, Carrera, dated November 5, 2004 and January 21, 2005. Carrera’s receipt of the letters was confirmed by return of the mail receipts to the Bureau and confirmations of the facsimile transmissions.

³³47 U.S.C. § 503(b)(1)(B); 47 C.F.R. § 1.80(a)(1). Section 312(f)(1) of the Act defines willful as “the conscious and deliberate commission or omission of [any] act, irrespective of any intent to violate” the law. 47 U.S.C. § 312(f)(1). The legislative history to section 312(f)(1) of the Act clarifies that this definition of willful applies to both sections 312 and 503(b) of the Act, H.R. Rep. No. 97-765, 97th Cong. 2d Sess. 51 (1982), and the Commission has so interpreted the term in the section 503(b) context. *See, e.g., Application for Review of Southern California Broadcasting Co.*, Memorandum Opinion and Order, 6 FCC Rcd 4387, 4388 (1991) (“*Southern California Broadcasting Co.*”). The Commission may also assess a forfeiture for violations that are merely repeated, and not willful. *See, e.g., Callais Cablevision, Inc., Grand Isle, Louisiana*, Notice of Apparent Liability for Monetary Forfeiture, 16 FCC Rcd 1359 (2001) (issuing a Notice of Apparent Liability for, *inter alia*, a cable television operator’s repeated signal leakage). “Repeated” means that the act was committed or omitted more than once, or lasts more than one day. *Callais Cablevision, Inc.*, 16 FCC Rcd at 1362, ¶ 9; *Southern California Broadcasting Co.*, 6 FCC Rcd at 4388, ¶ 5.

³⁴47 U.S.C. § 503(b); 47 C.F.R. § 1.80(f).

of the evidence that the person has violated the Act or a Commission rule.³⁵ As set forth below, we conclude under this standard that Carrera is apparently liable for forfeiture for its apparent willful and repeated violations of section 254(d) of the Act³⁶ and sections 54.711(a), 64.604(c)(5)(iii), 54.706(a), 1.1154, and 1.1157(b)(1) of the Commission's rules.³⁷

12. The fundamental issues in this case are whether Carrera apparently violated the Act and the Commission's rules by: (1) willfully or repeatedly failing to file Telecommunications Reporting Worksheets; (2) willfully or repeatedly failing to make requisite contributions toward the Universal Service and TRS Funds; (3) willfully or repeatedly failing to pay regulatory fees to the Commission; and (4) willfully or repeatedly failing to respond to Commission communications and comply with the associated orders. We answer these questions affirmatively. Based on a preponderance of the evidence, we conclude that Carrera is apparently liable for a forfeiture of \$606,500 for apparently willfully and repeatedly violating section 254(d) of the Act,³⁸ sections 54.711(a), 64.604(c)(5)(iii), 54.706(a), 1.1154, and 1.1157(b)(1) of the Commission's rules,³⁹ and Commission orders.

13. Specifically, we propose the following forfeitures for apparent violations within the last year: (1) \$250,000 for failure to file five Telecommunications Reporting Worksheets; (2) \$325,000 for failure to make any monthly USF contributions; (3) \$13,500 for making its 2004 TRS Fund contribution over four months after it was due on July 26, 2004; (4) \$10,000 for failure to make its 2004 regulatory fee program payment; and (5) \$8,000 for failure to respond to Commission directives. Although we propose forfeitures only for apparent violations within the last year, we discuss below the history of Carrera's noncompliance in prior years as useful background and to demonstrate the scope of Carrera's misconduct and the context of the misconduct that is within the statute of limitations period and thus covered by this NAL.

A. Submission of Telecommunications Reporting Worksheets

14. We conclude that Carrera apparently has violated sections 54.711(a) and 64.604(c)(5)(iii)(B) of the Commission's rules by willfully and repeatedly failing to file annual and quarterly Telecommunications Reporting Worksheets and predecessor forms since it began providing telecommunications services in 1999 through the current date.⁴⁰ Since 1999, Carrera has filed only one Telecommunications Reporting Worksheet, the 2004 annual form it filed late after receiving the March 30 Audit Letter.⁴¹ Within the past year alone, Carrera has failed to file the quarterly Worksheets due August 1 and November 1, 2004 and February 1 and May 1, 2005, and the annual form due April 1, 2005.

³⁵See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591, ¶ 4 (2002) ("*SBC Forfeiture Order*") (forfeiture paid).

³⁶47 U.S.C. § 254(d).

³⁷47 C.F.R. §§ 54.711(a), 64.604(c)(5)(iii), 54.706(a), 1.1154, 1.1157(b)(1).

³⁸47 U.S.C. § 254(d).

³⁹47 C.F.R. §§ 54.711(a), 64.604(c)(5)(iii), 54.706(a), 1.1154, 1.1157(b)(1).

⁴⁰47 C.F.R. §§ 54.711(a), 64.604(c)(5)(iii)(B).

⁴¹In response to the relevant LOI inquiry directing Carrera to provide copies of all Telecommunications Reporting Worksheets it has filed, Carrera provided only the annual form that it late filed on May 5, 2004. USAC records confirm that that it is the only Worksheet Carrera has filed to date. With certain exceptions that do not apply to Carrera, interstate telecommunications carriers must file quarterly, reporting revenue information in February, May, August and November of each year, and annually, by April 1 of each year. See Instructions for Completing the Worksheet for Filing Contributions to Telecommunications Relay Service, Universal Service, Number Administration and Local Number Portability Support Mechanisms, FCC Form 499, April 2004, at 9.

15. Sections 54.711(a) and 64.604(c)(5)(iii)(B) of the Commission's rules each clearly establish a carrier's obligation to file periodic Telecommunications Reporting Worksheets.⁴² A carrier's failure to file these Worksheets as required has serious implications for the USF, TRS, and regulatory fee programs. As discussed above, the filing of a Telecommunications Reporting Worksheet prompts a determination of liability for, and subsequent billing and collection of, regulatory fees and contributions by the administrators of the Universal Service and TRS Funds. With regard to the federal universal service program in particular, the failure of a carrier such as Carrera to abide by its federal filing obligation has a direct and profound detrimental impact by removing from the base of USF contributions telecommunications revenues that otherwise should be included, thereby shifting to compliant carriers additional economic burdens associated with the federal universal service program.⁴³ Consequently, a carrier's failure to file required Worksheets thwarts the very purpose for which Congress enacted section 254(d) – to ensure that every interstate carrier “contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.”⁴⁴ Viewed in this context, the Telecommunications Reporting Worksheet is not only an administrative tool, but a fundamental and critical component of the Commission's universal service, TRS, and regulatory fee programs.

16. As noted above, Carrera untimely registered and late filed the 2004 annual Telecommunications Reporting Worksheet (reporting 2003 revenue and due April 1, 2004) on May 5, 2004, and did so only after receiving an inquiry from the Commission.⁴⁵ Since May 5, 2004, Carrera has not filed any required Worksheet, including the 2005 annual Worksheet due April 1, 2005. Thus, Carrera still has not submitted all the information it is obligated to provide under our rules, including the financial information that is needed to calculate accurately the regulatory program payments it failed to make from 1999 through 2002 and from 2004 to the present. Based on a preponderance of the evidence, we find that Carrera apparently has violated section 254 of the Act⁴⁶ and sections 54.711 and 64.604 of the Commission's rules⁴⁷ by willfully and repeatedly failing to file required information with the Commission on multiple occasions since 1999, including failure to make five filings within the last year, the time period covered by this NAL. The NAL proposes a forfeiture for Carrera's failure to file the Worksheets due August 1 and November 1, 2004, and February 1, April 1, and May 1, 2005.

⁴²See 47 C.F.R. §§ 54.711(a), 64.604(c)(5)(iii)(B).

⁴³Sixty days prior to the start of each quarter, USAC is required to provide the Commission with a projection of the high cost, low income, schools and libraries, and rural health care funding requirements for the following quarter. See www.universalservice.org/overview/filings. Based on USAC's projection of the needs of the USF, and revenue projections from the registered carriers subject to universal service requirements, the Commission establishes a specific percentage of interstate and international end-user revenues that each subject telecommunications provider must contribute toward the USF. This percentage is called the contribution factor. The contribution factor, and, consequently, the amount owed to the USF by each affected telecommunications company, changes each quarter, depending on the needs of the USF and carrier-provided revenue projections. See www.fcc.gov/wcb/universal_service/quarter. Thus, in cases where a carrier, such as Carrera, fails to file required Worksheets reporting its revenue projections in a timely fashion, its revenues are excluded from the contribution base from which universal assessments are derived, and the economic burden of contributing falls disproportionately on carriers that have satisfied their reporting obligations.

⁴⁴47 U.S.C. § 254(d).

⁴⁵See March 30 Audit Letter. The Commission has repeatedly held that post-investigation corrective measures are not sufficient to avoid enforcement action. See *AT&T Wireless Services, Inc.*, Forfeiture Order, 17 FCC Rcd 21866, 21870-71 (2002); *America's Tele-Network Corp.*, Order of Forfeiture, 16 FCC Rcd 22350, 22355, ¶ 15 (2001); *Coleman Enters., Inc. d/b/a/ Local Long Distance, Inc.*, Order of Forfeiture, 15 FCC Rcd 24385, 24388, ¶ 8 (2000).

⁴⁶47 U.S.C. § 254.

⁴⁷47 C.F.R. §§ 1.1157, 54.711, 64.604.

B. Universal Service Contributions

17. We further conclude that Carrera apparently violated section 254(d) of the Act and section 54.706 of the Commission's rules by willfully and repeatedly failing to contribute to universal service support mechanisms.⁴⁸ Section 54.706(c) of the Commission's rules unambiguously directs that "entities [providing] interstate telecommunications to the public . . . for a fee . . . contribute to the universal service support programs."⁴⁹ Although Carrera has been providing interstate telecommunications services to end-users since 1999, Carrera has made no universal service contributions to date.⁵⁰ During the relevant period, Carrera was required, pursuant to section 54.706(b) of the Commission's rules, to contribute to universal service mechanisms based upon either its historical or projected revenues.⁵¹ We reiterate that Carrera has not yet provided the information necessary to calculate how much it owes for past universal service contribution obligations, nor has it made any attempt to pay these long past due obligations.⁵² As we previously have stated,

[c]arrier nonpayment of universal service contributions undermines the efficiency and effectiveness of the universal service support mechanisms. Moreover, delinquent carriers may obtain a competitive advantage over carriers complying with the Act and our rules. We consider universal service nonpayment to be a serious threat to a key goal of Congress and one of the Commission's primary responsibilities.⁵³

Based on a preponderance of the evidence, we find that Carrera apparently has violated sections 254(d) of the Act and 54.706 of the Commission's rules by willfully and repeatedly failing to make any of its monthly universal service contribution payments for a period of years, including 12 such failures within the past year.

C. Telecommunications Relay Service Contributions

18. We also find that Carrera apparently has violated section 64.604(c)(5)(iii)(A) of the Commission's rules by failing to make required contributions to the interstate TRS Fund.⁵⁴ As an interstate telecommunications carrier, Carrera is obligated to contribute to the TRS Fund on the basis of its interstate and international end-user telecommunications revenues.⁵⁵ A carrier's contribution to the TRS Fund is based upon its subject revenues for the prior calendar year and a contribution factor

⁴⁸47 U.S.C. § 254(d); 47 C.F.R. § 54.706.

⁴⁹47 C.F.R. § 54.706(c).

⁵⁰See *Carrera Response* at 3. USAC's records show further that Carrera has not made any universal service support payments to date.

⁵¹See 47 C.F.R. § 54.706(c).

⁵²In response to a Commission inquiry to provide all FCC Form 499 filings, Carrera submitted only the FCC Form 499-A filed on May 5, 2004. USAC's records indicate that Carrera did not and has not filed annual Telecommunications Reporting Worksheets for any years prior to 2004, has not filed any quarterly forms, and has not filed the annual Worksheet due April 1, 2005.

⁵³*Globcom*, 18 FCC Rcd at 19903 ¶ 26.

⁵⁴47 C.F.R. § 64.604(c)(5)(iii)(A).

⁵⁵*Id.* Each subject carrier must contribute at least \$25 per year. Carriers whose annual contributions are less than \$1,200 must pay the entire amount at the beginning of the contribution period. *Id.* 47 C.F.R. § 64.604(c)(5)(iii)(B). Otherwise, carriers may divide their contributions into equal monthly payments. *Id.*

determined annually by the Commission.⁵⁶ Subject carriers must make TRS contributions on an annual basis, with certain exceptions that are not applicable to Carrera.⁵⁷

19. Carrera's first TRS payment was made only on November 29, 2004, over five years after it first began offering interstate telecommunications services, four months after its 2004 TRS contribution became due on July 26, 2004, and eight months after it first received a letter of inquiry from the Commission regarding its compliance with the Commission's rules.⁵⁸ We note further that Carrera has not yet provided the information necessary to calculate how much it owes for past TRS contribution obligations, nor has it made any attempt to pay these long past due obligations.⁵⁹ Based on a preponderance of the evidence, we therefore find that Carrera apparently has violated section 64.604 of the Commission's rules by willfully and repeatedly failing to pay its TRS contributions when due, including its failure to make on a timely basis the payment due in July 2004.

D. Payment of Regulatory Fees

20. We also conclude that Carrera apparently has violated sections 1.1154 and 1.1157(b)(1) of the Commission's rules by failing to pay required regulatory fees to the Commission.⁶⁰ As an interstate telecommunications service provider, Carrera was required as early as 2000 to pay regulatory fees.⁶¹ Carrera admits and Commission records corroborate that Carrera has not made any regulatory fee program payment.⁶² Carrera apparently thus has failed to make its annual regulatory fee program payments a total of five times. For these reasons, we find that Carrera apparently has violated section 1.1157 of the Commission's rules by willfully and repeatedly failing to make its statutorily mandated regulatory fee program payments, including one such failure in the past year.

E. Failure to Respond to Commission Communications.

21. The Commission has broad authority to investigate the entities it regulates under, *inter alia*, sections 4(i), 4(j), 218, and 403 of the Act.⁶³ Section 4(i) authorizes the Commission to "issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions," and section 4(j) states that "the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and to the ends of justice." Section 218 of the Act authorizes the Commission to "obtain from . . . carriers . . . full and complete information necessary to enable the Commission to perform the duties and carry out the objects for which it was created." Section 416 of the Act requires carriers to follow Commission orders.⁶⁴

⁵⁶47 C.F.R. § 64.604(c)(5)(iii)(B).

⁵⁷See 47 C.F.R. § 64.604(c)(5)(iii)(B).

⁵⁸The TRS Administrator's records indicate that Carrera made its 2004 contribution payment on November 29, 2004; *see also Carrera Response* at 3 (stating that Carrera had not made any TRS payments as of the date of its response, September 10, 2004.)

⁵⁹In response to a Commission inquiry to provide all FCC Form 499 filings, Carrera submitted the FCC Form 499-A filed on May 5, 2004. USAC's records indicate that Carrera did not and has not filed annual Telecommunications Reporting Worksheets for this year or any years prior to 2004.

⁶⁰47 C.F.R. §§ 1.1154, 1.1157. Payments of standard regulatory fees applicable to common carrier services must be filed in full on an annual basis. *Id.* § 1.1157(b)(1).

⁶¹Regulatory fee program payments for interstate telecommunications providers are calculated on prior year revenue. *See, e.g., Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, 19 FCC Rcd at 11675.

⁶²See *Carrera Response* at 3 (stating that Carrera has not made payments).

⁶³47 U.S.C. §§ 4, 218, & 403.

⁶⁴47 U.S.C. § 416.

22. Carrera apparently willfully and repeatedly failed to provide certain documents and information required by the Bureau in order to enable the Commission to perform its enforcement function. Specifically, Carrera failed to respond fully to the first LOI the Bureau issued and failed to respond in any manner to the two additional LOIs the Bureau issued. As indicated above, on July 29, 2004, the Bureau directed Carrera to provide certain documents and information in order to enable the Commission to perform its enforcement function and evaluate allegations that Carrera had violated Commission rules. Carrera did not respond to the first LOI as required on August 18, 2004, or request an extension of time in which to meet its obligations under the LOI. Instead, only after Bureau staff telephoned Carrera in late August regarding its failure to respond and retroactively granted Carrera an extension of time in which to respond in full to the LOI, Carrera provided an incomplete response on September 13, 2004.⁶⁵ The Bureau issued two subsequent LOIs directing Carrera to provide a complete response.⁶⁶ Carrera failed to respond in any manner to these LOIs or to telephone or voicemail messages made by Bureau staff regarding Carrera's continuing failure to respond. Carrera received the LOIs, as evidenced by return of the mail receipt to the Bureau and confirmation of the facsimile transmission.⁶⁷ Carrera's willful and repeated failures to respond to the Bureau's LOIs constitute apparent violations of Commission orders.⁶⁸ Based on a preponderance of the evidence, we find that Carrera apparently has willfully and repeatedly failed to respond to the Bureau's LOIs.

F. Proposed Forfeiture

23. Section 503(b)(1)(B) of the Act provides that any person that willfully or repeatedly fails to comply with any provision of the Act or any rule, regulation, or order issued by the Commission, shall be liable to the United States for a forfeiture penalty.⁶⁹ For the apparent violations in this case, section 503(b)(2)(B) of the Act authorizes the Commission to assess a forfeiture of up to \$120,000 for each violation or each day of a continuing violation, up to a statutory maximum of \$1.2 million for a single act or failure to act before September 7, 2004, and up to \$130,000 for each violation or each day of a continuing violation, up to a statutory maximum of \$1.325 million for a single act or failure to act for violations occurring on or after September 7, 2004.⁷⁰ In determining the appropriate forfeiture amount, we consider the factors enumerated in section 503(b)(2)(D) of the Act, including "the nature, circumstances, extent and gravity of the violation, and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."⁷¹

⁶⁵See *supra* Carrera Response, note 31.

⁶⁶Letters from Hillary S. DeNigro, Deputy Chief, Investigations and Hearings Division, Enforcement Bureau, to Joann P. Bennett, Carrera, dated November 5, 2004 and January 21, 2005.

⁶⁷See *supra* note 32.

⁶⁸See, e.g., *SBC Forfeiture Order*, 17 FCC Rcd at 7600, ¶ 28; *Globcom*, 18 FCC Rcd at 19898, n. 36; *BigZoo.com Corp.*, Notice of Apparent Liability for Forfeiture and Order, 19 FCC Rcd 24437 (Enf. Bur. 2004) ("*BigZoo.com Corp.*"), Order of Forfeiture, 20 FCC Rcd 3954 (Enf. Bur. 2005); *American Family Association, Licensee of Station KBMP(FM), Enterprise, Kansas*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 14072, Forfeiture Order, 19 FCC Rcd 22025 (Enf. Bur. 2004); *World Communications Satellite Systems, Inc.*, Notice of Apparent Liability for Forfeiture, 18 FCC Rcd 18545 (Enf. Bur. 2003) ("*WCSS Forfeiture Order*"); *Donald W. Kaminski, Jr.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 10707 (Enf. Bur. 2001), Forfeiture Order, 18 FCC Rcd 26065 (Enf. Bur. 2003).

⁶⁹47 U.S.C. § 503(b)(1)(B); see also 47 C.F.R. § 1.80(a)(2).

⁷⁰47 U.S.C. § 503(b)(2)(B); see also 47 C.F.R. § 1.80(b)(2).

⁷¹47 U.S.C. § 503(b)(2)(D); see also *Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087, 17100, ¶ 27 (1997) ("*Forfeiture Policy Statement*"); recon. denied 15 FCC Rcd 303 (1999); 47 C.F.R. § 1.80(b).

24. Under section 503(b)(6) of the Act, we may only propose forfeitures for apparent violations that occurred within one year of the date of this NAL.⁷² Nevertheless, section 503(b) does not bar us from assessing whether Carrera's conduct prior to that time period apparently violated the Act or our rules in determining the appropriate forfeiture amount for those violations within the statute of limitations.⁷³ Therefore, although we find that Carrera apparently violated the Act and our rules for over five years, we propose forfeitures here only for violations that occurred within the last year.

25. In the past, we have held that a substantial forfeiture of \$50,000 is warranted for a carrier's failure to file a Telecommunications Reporting Worksheet for revenue reporting purposes.⁷⁴ We find that Carrera's willful and repeated failure to file periodic Telecommunications Reporting Worksheets is egregious. As we noted above, a carrier's obligation to file these Worksheets is directly linked to, and thus has serious implications for, administration of the USF, TRS, and regulatory fee programs. By ignoring its reporting obligations, Carrera has unilaterally shifted to compliant carriers and their customers the economic costs associated with the universal service, TRS, and regulatory fee programs. Therefore, we find that Carrera is apparently liable for a \$250,000 forfeiture for its failure to file five Worksheets within the last year; *i.e.*, those due August 1 and November 1, 2004, and February 1, April 1, and May 1 2005.

26. Based on the facts above, it also appears that Carrera has failed to make the requisite contributions into the Universal Service Fund for a period of over five years. Nonpayment of universal service contributions is an egregious offense that bestows on delinquent carriers an unfair competitive advantage by shifting to compliant carriers the economic costs and burdens associated with universal service. A carrier's failure to make required universal service contributions hampers realization of Congress' policy objective in section 254(d) of the Act to ensure the equitable and non-discriminatory distribution of universal service costs among all telecommunications providers.⁷⁵ The Commission has established a base forfeiture amount of \$20,000 for each month in which a carrier has failed to make required universal service contributions.⁷⁶ Consequently, we find Carrera apparently liable for a base forfeiture of \$240,000 for its willful and repeated failure to make universal service contributions for each of the last twelve months.

27. In the past, we have calculated upward adjustments to forfeitures for failure to make USF and TRS payments based on half of the company's unpaid contributions.⁷⁷ In situations such as this one, however, where the subject company has failed to file timely and accurate information, we cannot determine the full amount owed to the funds until and unless the subject company provides complete and accurate information to the fund administrators. Thus, our ability to calculate and assess accurately an upward adjustment based on a percentage of unpaid contribution amounts can be inhibited by the violator. In this regard, Commission enforcement action can be delayed pending the company's full revenue disclosures, or foreclosed altogether if the statute of limitations expires during the period of delay. In such circumstances, companies that comply with our registration and filing requirements might be worse off than those, like Carrera, that appear to ignore them. Such a result is not only unfair, but is bad public

⁷²47 U.S.C. § 503(b)(6)(B); 47 C.F.R. § 1.80(c)(3). Effective September 7, 2004, the Commission amended its rules to increase the maximum penalties to account for inflation since the last adjustment of the penalty rates. *See Amendment of Section 1.90 of the Commission's Rules*, Order, 19 FCC Rcd 10945, 10946 ¶ 6 (2004).

⁷³*See, e.g., Globcom*, 18 FCC Rcd at 19903; *Roadrunner Transp., Inc.*, Forfeiture Order, 15 FCC Rcd 9669, 9671 (2000); *Liab. of E. Broad. Corp.*, Memorandum Opinion and Order, 10 F.C.C. 2d 37 (1967).

⁷⁴In the *Globcom NAL*, the Commission proposed a \$50,000 forfeiture for each instance within the statute of limitations that Globcom failed to file a required Worksheet. *Globcom*, 18 FCC Rcd at 19905.

⁷⁵*See* 47 U.S.C. § 254(d).

⁷⁶*See Globcom*, 18 FCC Rcd at 19903-19904, ¶¶ 25-27.

⁷⁷*See, e.g., id.*

policy. During the course of the investigation, however, we did receive certain revenue information which we have used to estimate the amount Carrera should have paid in USF contributions since it began operations (approximately \$170,000) for purposes of calculating an upward adjustment of about half that amount. Therefore, we propose an upward adjustment of \$85,000 for Carrera's apparent failure to make universal service contributions, taking into account all of the factors enumerated in section 503(b)(2)(D) of the Act. We thus find Carrera liable for a total proposed forfeiture of \$325,000 for its apparent willful and repeated failure to make contributions into the Universal Service Fund.

28. We also find that Carrera apparently has failed to make any TRS contributions from 2000 until November 29, 2004. The November 2004 contribution was for the 2004 TRS obligation billed by the TRS administrator and due on July 26, 2004, and Carrera made this payment only after it received multiple Bureau inquiries into its compliance with the related rules.⁷⁸ Where a carrier fails to satisfy its TRS obligations for an extended period of time, it thwarts the purpose for which Congress established section 225(b)(1) of the Act and its implementing regulations -- to ensure that telecommunications relay services "are available to the extent possible and in the most efficient manner, to hearing-impaired and speech-impaired individuals in the United States."⁷⁹

29. The Commission has established a base forfeiture amount of \$10,000 for each instance in which a carrier fails to make required TRS contributions.⁸⁰ In light of Carrera's failure to pay timely its TRS obligation for the 2004-2005 funding period, we find it apparently liable for a base forfeiture in the amount of \$10,000. For the reasons discussed above regarding Carrera's failure to make universal service contributions and generally consistent with Commission precedent,⁸¹ we find that an upward adjustment in an amount approximately one half of the carrier's estimated unpaid TRS contributions (approximately \$7,000) is appropriate for Carrera's apparent failure to make TRS contributions. Taking into account the factors enumerated in section 503(b)(2)(D) of the Act, we conclude that a \$3,500 upward adjustment is reasonable. Consequently, we find Carrera liable for a total proposed forfeiture of \$13,500 for its willful and repeated failure to satisfy its TRS obligations for the 2004-2005 funding period.

30. We also conclude that Carrera has apparently failed to make any regulatory fee payments to the Commission since it became obligated to do so in 2000 through the current date, including the 2004 regulatory fee payment due August 19, 2004.⁸² A carrier's failure to contribute toward the costs of certain regulatory activities from which it benefits undermines the efficiency, equitability, and effectiveness of the regulatory fee program and accomplishment of Congress' objectives in section 9(a)(1) of the Act. The Commission has not established a base forfeiture amount for failure to pay regulatory fees. Regulatory fee obligations, however, are similar to TRS contributions in that they are due annually and are assessed at similar rates.⁸³ For this reason, we find that a base forfeiture in the amount of \$10,000 for failure to make required regulatory fee payments is appropriate. We, therefore, find Carrera apparently

⁷⁸Carrera made its late TRS program payment only after receiving two LOIs from the Commission specifically inquiring into its compliance with the payment requirement and multiple collection demands from the TRS Administrator. Commission precedent is clear that subsequent remedial measures do not cure a violation for enforcement purposes. *See supra* note 45.

⁷⁹47 U.S.C. § 225(b)(1).

⁸⁰*See Globcom*, 18 FCC Rcd at 19904, ¶ 29.

⁸¹*See id.*

⁸²*See* "FY 2004 Regulatory Fees Due No Later Than August 19, 2004," *Public Notice*, (rel. Jul. 2, 2004).

⁸³For example, the 2004 TRS Fund contribution factor was .00356 per dollar of interstate and international end-user revenue and the 2004 interstate telecommunications regulatory fee assessment was .00218 per dollar of interstate and international end-user revenue. *See Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 19 FCC Rcd 12224, 12225 (Con. & Gov. Aff. Bur. 2004); *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, 19 FCC Rcd at 11691.

liable for a \$10,000 forfeiture for its apparent violation of sections 1.1154 and 1.1157 of the Commission's rules.

31. Finally, based on the facts discussed above, we also conclude that Carrera apparently willfully and repeatedly failed to respond to the Bureau's LOIs. Specifically with respect to the LOI issued August 18, 2004, Carrera provided only an untimely and partial response and with respect to the LOIs issued November 5, 2004 and January 21, 2005, Carrera never responded in any manner, despite repeated attempts by Bureau staff to elicit responses from Carrera.⁸⁴ Section 1.80 of the Commission's rules and the Commission's Forfeiture Policy Statement establish a base forfeiture amount of \$4,000 for failure to respond to a Commission communication.⁸⁵ However, misconduct of this type warrants an upward adjustment because it exhibits a disregard for the Commission's authority that cannot be tolerated, and, more importantly, it threatens to compromise the Commission's ability to adequately investigate violations of its rules.⁸⁶ The Bureau must act swiftly to investigate potential violations of the Communications Act or the Commission's rules in order to take action within the one year period specified in section 503(b)(6) of the Act.⁸⁷ Prompt and full responses to Bureau inquiry letters are, accordingly, critical to the Commission's enforcement function. Recently the Bureau assessed a forfeiture of \$20,000 against a company that failed to respond to a Bureau LOI.⁸⁸ In that case, the company, represented by counsel, requested several extensions of time in which to respond to the LOI, but then failed to provide any of the required information or documents.⁸⁹ In Carrera's case, the company is not represented by counsel in this matter and did provide a portion of the information and documents it was ordered to produce, although untimely and only after Bureau efforts to obtain Carrera's compliance. Taking into account the factors enumerated in section 503(b)(2)(D) of the Act, we conclude that an upward adjustment of the base forfeiture amount to \$8,000 is warranted in this case for repeatedly and willfully failing to respond to Commission communications.

IV. CONCLUSION

32. In light of the seriousness, duration and scope of the apparent violations, and to ensure that a company with substantial revenues such as Carrera does not consider the proposed forfeiture merely "an affordable cost of doing business,"⁹⁰ we find that a proposed forfeiture in the amount of \$606,500 is warranted. As discussed above, this proposed forfeiture amount includes: (1) a total proposed penalty of \$250,000 for failing to file five Telecommunications Reporting Worksheets within the past year; (2) a total proposed penalty of \$325,000 for failing to make any of its monthly universal service contributions within the past year; (3) a proposed total penalty of \$13,500 for failing to make its 2004 TRS program contribution when due; (4) a total proposed penalty of \$10,000 for failing to make its 2004 regulatory fee program payment; and (5) a total proposed penalty of \$8,000 for failing to respond to Commission communications.

⁸⁴See *supra* ¶ 22.

⁸⁵47 C.F.R. § 1.80; *Forfeiture Policy Statement*, 12 FCC Rcd at 17114.

⁸⁶See, e.g., *WCSS Forfeiture Order*, 18 FCC Rcd at 18545 (proposing a monetary forfeiture of \$10,000 against regulatee for submitting a jurisdictional objection rather than a substantive response to a Bureau LOI); *SBC Forfeiture Order*, 17 FCC Rcd at 7600, ¶ 28 (issuing a monetary forfeiture of \$100,000 against SBC for violating an order to submit a sworn statement with its response to a Bureau LOI).

⁸⁷47 U.S.C § 503(b)(6).

⁸⁸*BigZoo.com Corp.*, Order of Forfeiture, DA 05-449, (Enf. Bur. Rel. Feb. 23, 2005).

⁸⁹See *BigZoo.com Corp.*, 19 FCC Rcd at 24437-38.

⁹⁰*Forfeiture Policy Statement*, 12 FCC Rcd at 17099; see also 47 C.F.R. § 1.80(b)(4).

33. We caution that additional violations of the Act or the Commission's rules could subject Carrera to further enforcement action. Such action could take the form of higher monetary forfeitures and/or possible revocation of Carrera's operating authority, including disqualification of Carrera's principals from the provision of any interstate common carrier services without the prior consent of the Commission.⁹¹ Further, we also note that Carrera is subject to the Commission's "red light rule" as a result of the non-payments detailed above and the Commission will not act on, and may dismiss, any application or request for authorization filed by Carrera in accordance with the Commission's rules.⁹² We order Carrera to submit within thirty days, either as part of its response to this NAL or separately, a report, supported by a sworn statement or declaration under penalty of perjury of a corporate officer, stating its plan to come into compliance with the relevant payment and reporting rules discussed herein. We further order Carrera to file with USAC within thirty days all Annual Telecommunications Reporting Worksheets and amended Worksheets required under the Commission's rules from the date that Carrera commenced providing telecommunications services in the United States to the date of this NAL.

V. ORDERING CLAUSES

34. ACCORDINGLY, IT IS ORDERED THAT, pursuant to section 503(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 503(b), and section 1.80 of the Commission's rules, 47 C.F.R. § 1.80, that Carrera is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of \$606,500 for willfully and repeatedly violating the Act and the Commission's rules.

35. IT IS FURTHER ORDERED THAT, pursuant to section 1.80 of the Commission's Rules, 47 C.F.R. § 1.80, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Carrera SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

36. IT IS FURTHER ORDERED THAT, pursuant to sections 4(i), 9(a)(1), 219(b), 254(d), and 225(b)(1) of the Act, 47 U.S.C. §§ 4(i), 159(a)(1), 219(b), 254(d), and 225(b)(1) and sections 54.706(a), 64.604(c)(5)(iii), 54.711(a), 1.1154, and 1.1157(b)(1) of the Commission's rules, 47 C.F.R. §§ 54.706(a), 64.604(c)(5)(iii), 54.711(a), 1.1154, and 1.1157(b)(1), within thirty days of the release of this NOTICE OF APPARENT LIABILITY AND ORDER, Carrera SHALL SUBMIT a report, supported by a sworn statement or declaration under penalty of perjury by a corporate officer, stating its plan promptly to come into compliance with the payment and reporting rules discussed herein. Carrera also SHALL SUBMIT to USAC within thirty days all Annual Telecommunications Reporting Worksheets and amended Worksheets required under the Commission's rules from the date that Carrera commenced providing telecommunications services to the date of this NAL.

37. Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106.

⁹¹See *Business Options, Inc.*, Consent Decree, 19 FCC Rcd 2916 (2003); *NOS Communications, Inc., Affinity Network Incorporated and NOSVA Limited Partnership*, Consent Decree, 2003 WL 22439710 (2003).

⁹²47 C.F.R. § 1.1910. The rule went into effect on November 1, 2004. See "FCC Announces Brief Delay in Enforcement of Red Light Rule," *Public Notice*, 19 FCC Rcd 19452 (2004).

38. The response, if any, to this NOTICE OF APPARENT LIABILITY must be mailed to William H. Davenport, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Washington, D.C. 20554 and must include the NAL/Acct. No. referenced above.

39. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (GAAP); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

40. Requests for payment of the full amount of this NAL under an installment plan should be sent to Chief, Credit and Management Center, 445 12th Street, S.W., Washington, D.C. 20554.⁹³

41. IT IS FURTHER ORDERED that a copy of this NOTICE OF APPARENT LIABILITY AND ORDER shall be sent by certified mail, return receipt requested, to Ms. Joann P. Bennett, General Partner, Carrera Communications, LP, P.O. Box 90417, San Antonio, TX , 78209.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁹³See 47 C.F.R. § 1.1914.